



TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE

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SUPERSEDES: PD-44 (rev. 6)
July 1, 2006

EXECUTIVE DIRECTIVE

SUBJECT: RETIREMENT BENEFITS

AUTHORITY: Texas Government Code §§ 803.201, 803.203, 811.001-814.603, 815.402;
26 U.S.C. § 415

APPLICABILITY: Texas Department of Criminal Justice (TDCJ)

EMPLOYMENT AT WILL CLAUSE:

These guidelines **do not** constitute an employment contract or a guarantee of continued employment. The TDCJ reserves the right to change the provisions of these guidelines at any time.

Nothing in these guidelines and procedures limits the executive director's authority to establish or revise human resources policy. These guidelines and procedures are adopted to guide the internal operations of the TDCJ and **do not** create any legally enforceable interest or limit the executive director's, deputy executive director's, or division directors' authority to terminate an employee at will.

POLICY:

The retirement program for TDCJ employees is administered by the Employees Retirement System of Texas (ERS).

PROCEDURES:

I. Accessing Information

An employee may obtain information pertaining to ERS membership, retirement, including retirement estimates, or other retiree benefits by contacting the ERS directly via the ERS website (www.ers.state.tx.us) or the ERS toll-free phone number (877-275-4377). Retirement booklets, presentation schedules, and other retirement-related information are available on the ERS website. In addition, an employee may obtain information from the employee's human resources representative or the Benefits Program Area, Employee Services Section, Human Resources Division.

II. ERS Membership/Contributions

A. Full-time and part-time employees in positions not covered by another public retirement system are required to be ERS members and contribute a percentage of the employee's eligible monthly pay to the ERS, unless previously retired from state service under the ERS. Independent contractors and consultants are excluded from membership.

B. Effective ERS Membership Date

1. A newly-hired employee with no previous ERS membership shall become an ERS member on the first of the month following the 90th calendar day of employment, and ERS retirement contribution deductions shall begin the first of the month following the 90th calendar day of employment.
2. A rehired employee with previous ERS membership, except for an ERS retiree, shall become an active ERS member based on the following:
 - a. If the period of separation included a full calendar month (i.e., from the first calendar day of a month through the last calendar day of a month, inclusive), the employee shall become an active ERS member on the first of the month following the 90th calendar day of reemployment and ERS retirement contribution deductions shall begin the first of the month following the 90th calendar day of reemployment.
 - b. If the employee's period of separation did not include a full calendar month, the employee shall become a regular service ERS member on the employee's first day of reemployment, and ERS retirement contribution deductions shall begin on the employee's first day of reemployment.

An ERS member may, in accordance with ERS rules and guidelines, establish ERS service credit for service performed during the 90-calendar day waiting period.

C. Earned Interest on Retirement Accounts

All accounts are credited with five percent interest each fiscal year, as set by law, on the mean balance in the accounts for the year. Interest credited to the employee's account does not affect the amount of the retirement annuity. Accrued interest only benefits those employees who separate employment and withdraw contributions.

D. Refund of Contributions upon Separation of Employment

1. An employee may receive a refund of the employee's retirement contributions plus accrued interest after the employee has been separated from employment for a full calendar month and has not returned to state employment. The refund of employee contributions cancels the ERS membership and terminates all rights to benefits. If such an individual returns to state employment, the individual shall become a new ERS member when eligibility requirements are met.
2. To receive a refund, an employee must contact the ERS toll-free number at 877-275-4377. The normal processing time for refunds is 30 to 45 calendar days from the date the employee separated from state employment or requested the refund, whichever occurs later.
3. A separating employee is not required to withdraw retirement contributions; the employee may leave contributions in the employee's account accruing the applicable interest rate. An individual does not have to be an active state employee at the time of retirement to receive an annuity or applicable benefits.

E. Purchasing Service Credit

An employee may purchase refunded service, military service, service not previously established, or additional service credit (ASC). Information regarding the cost of service credit may be obtained by submitting a request to the ERS by phone, U.S. mail, the ERS website, or via e-mail (bencom@ers.state.tx.us).

1. The employee shall provide the employee's full name (as it appears on the TDCJ payroll) and social security number.
2. To receive information relating to the purchase of refunded ERS service or service not previously established, the employee shall provide approximate dates of employment.
3. To receive information relating to the purchase of military service, the employee shall provide a copy of the employee's military service record (i.e., DD-214 or NGB23).
4. ASC is available to an employee with ten or more years of actual ERS service credit (excluding military service). An employee may access the ERS website and receive an estimate of the cost to purchase ASC.

III. Service Retirement

Three factors that determine eligibility for service retirement are an employee's age, length of state service credited with the ERS, and type of state service credited with ERS. The two types of creditable service are non-custodial service and Law Enforcement and Custodial Officers System (LECOS) service.

Each year, ERS provides a Statement of Retirement Benefits to each employee who is a contributing member and passed the 90-day waiting period. This statement is mailed to the employee's home address on file with the ERS following their birthday.

A. Other Service Credit Allowed for Service Retirement

An employee may be eligible to combine other service credit with ERS service to qualify for service retirement through the proportionate retirement program or the optional retirement program.

The proportionate retirement program applies to the following participating retirement systems:

1. ERS;
2. Judicial Retirement System of Texas Plans I and II;
3. Teacher Retirement System of Texas;
4. Texas Municipal Retirement System;
5. Texas County and District Retirement System;
6. City of Austin Retirement System;
7. City of Austin Police Retirement System;
8. El Paso City Employees' Pension Fund; and
9. El Paso Fireman and Policeman's Pension Fund.

B. Leave Credit

1. Employees Hired Prior to September 1, 2009

An employee may convert unused accrued sick and vacation (annual) leave to retirement credit in order to meet length of service retirement eligibility requirements or increase the employee's retirement credit and the amount of the employee's monthly annuity check. The employee's separation and retirement must occur in the same month in order to

receive retirement service credit for unused accrued sick and vacation (annual) leave accruals.

a. Sick Leave Credit

One month of retirement credit shall be granted for each 160-hour increment of unused accrued sick leave or any fraction of 160 hours. Only one minute in excess of the 160-hour increment(s) is necessary to obtain another month of retirement credit. The employee may donate any remaining excess hours to the Sick Leave Pool. (For example: An employee with 325 hours of accrued sick leave shall receive three months retirement credit based on one month for each 160-hour increment plus one month retirement credit for one accrued minute over 320 hours. The four excess hours may be donated to the Sick Leave Pool.) The Sick and Vacation Leave Factor Table (Attachment A) indicates how unused accrued sick leave may be credited to an employee's service credit.

b. Vacation (Annual) Leave Credit

One month of retirement credit shall be granted for each 160-hour increment of unused accrued vacation (annual) leave or any fraction of 160 hours. An employee is allowed such retirement credit even though the employee receives a lump sum payment for unused accrued vacation (annual) leave. The Sick and Vacation Leave Factor Table indicates how unused accrued vacation (annual) leave may be credited to an employee's service credit.

NOTE: These provisions also apply to former employees who left state service before September 1, 2009, and did not withdraw their retirement account with ERS before being rehired.

2. Employees Hired on or after September 1, 2009 and Former Employees Who Withdrew Their Retirement Account from ERS

An employee may use accrued sick and vacation (annual) leave in order to increase the employee's retirement credit and the amount of the employees' monthly annuity check upon retirement. Such leave may not be used to meet length of service retirement eligibility requirements.

IV. Disability Retirement

If an active employee becomes mentally or physically disabled, the employee may be eligible for disability retirement benefits. One of the qualifications required by the ERS is the employee must have sought and been denied a workplace accommodation from the employing state agency. Therefore, before a TDCJ employee applies for disability retirement, the employee shall request a workplace accommodation for a position of comparable pay in accordance with the procedures in PD-14, "Americans with Disabilities Act and Employment of Persons with a Permanent Medical Condition." The employee should contact the ERS for complete information regarding this requirement and other requirements for disability retirement.

V. Partial Lump Sum Option

An employee may be eligible to choose to receive a check for up to 36 months of standard annuity payments as a lump sum at retirement. Once chosen, a payment from one to 36 months of the standard annuity shall be made with the first annuity payment. This payment may be subject to federal withholding taxes if the lump sum is not rolled over to an eligible qualified retirement plan or an Individual Retirement Account (IRA). The standard monthly annuity would then be permanently reduced using established actuarial reduction factors. Selecting the Partial Lump Sum Option shall permanently lower the employee's monthly annuity payments. The actuarial reduction factors determining the reduced standard monthly annuity can be found in the current *Planning Your Retirement* booklet provided by the ERS or on the ERS website.

VI. Retirement Notification

A. Employee Responsibilities

1. The employee shall contact ERS at 877-275-4377 and speak with a retirement benefits specialist who will assist with the service retirement or disability retirement process. The employee shall contact ERS no earlier than 90 days before the employee's expected retirement date.
2. After the employee has decided upon a retirement date with ERS, the employee shall immediately notify the human resources representative of the employee's pending service or disability retirement.
3. Upon receipt of a Retirement Acceptance form from ERS, the employee shall:
 - a. Sign as instructed;
 - b. Have the Retirement Acceptance form notarized; and

- c. Mail the completed form and any requested documentation to ERS at least 15 days before the employee's retirement date.

NOTE: This is to ensure the employee receives the first annuity payment on time.

- 4. The employee shall decide whether to defer all or part of the lump sum payment of unused vacation or overtime into a Texa\$aver Plan on PERS 571, The Texa\$aver 401(k) and 457 Plans Lump Sum Deferral Enrollment Form (Attachment B). If the employee does not have a Texa\$aver Plan account, the employee can open one prior to separation from service and defer the lump sum payment.

The employee shall inform the human resources representative on or before the employee's separation date of the employee's intention to defer all or part of the lump sum payment.

B. Human Resources Representative Responsibilities

- 1. Upon receipt of notification of an employee's retirement effective date, the human resources representative shall take the following actions:

- a. Provide the employee with a Separation Guide;
- b. Assist the employee in completing the PERS 428, Retiree Options Regarding State Compensatory and Holiday Leave Accruals form (Attachment C). The human resources representative shall explain to the prospective retiree that failure to exhaust all compensatory/holiday accruals shall result in the cancellation of the employee's retirement application, unless the employee indicates an election to forfeit all excess compensatory/holiday leave on the PERS 428.

The human resources representative shall file the original PERS 428 in the employee's unit/department human resources file, Insurance/ Retirement Section, and provide a copy of the form to the employee;

- c. Use the Sick and Vacation Leave Factor Table to calculate the employee's sick and vacation (annual) leave balances. These balances may be used:
 - (1) For service credit and to increase the annuity for employees hired prior to September 1, 2009; or
 - (2) To increase the annuity for employees hired on or after September 1, 2009.

- d. Inform the employee that even if the employee returns to work as a working retiree within 12 months of retirement, none of the employee's sick leave balance shall be restored. If applicable, the human resources representative shall assist the employee with completion of the PERS 205, Sick Leave Pool Contribution for any remaining sick leave balance;
 - e. Inform an employee who retires, the employee is not allowed to return to state employment for 90 calendar days.
 - f. If applicable, assist the employee with completion of the PERS 571, The TexaSaver 401(k) and 457 Plans Lump Sum Deferral Enrollment Form and immediately fax the PERS 571 to the deferred compensation coordinator, Employee Services, Human Resources Division.
 - g. Enter the retirement date and last date physically at work in the TDCJ Payroll/Personnel System (PPS) Employee Retirement Update (RETU) screen; and
 - h. Enter the Payroll Status Change (PSC) in the Payroll/Personnel System (PPS) Payroll Status Change Update (PSCUPD) screen in accordance with the due date established on the payroll schedule for the applicable month of retirement.
2. The human resources representative shall immediately send an e-mail to the Benefits Program Area, Employee Services Section, Human Resources Division, if an employee cancels or makes a change related to the employee's retirement.

Brad Livingston
Executive Director

Texas Department of Criminal Justice Sick and Vacation Leave Factor Table

ERS grants creditable service for accrued and unused sick and vacation leave.

This service may be used to increase the annuity payments. For employees hired prior to September 1, 2009, this service may also be used to satisfy requirements for retirement eligibility.

<i>Employees Retirement System Of Texas (ERS) Creditable Service Granted For Unused Leave Accruals</i>	<i>Required Leave Accrual Range (Stated In Hours & Minutes)</i>
1 Month	160:00
2 Months	160:01 – 320:00
3 Months	320:01 – 480:00
4 Months	480:01 – 640:00
5 Months	640:01 – 800:00
6 Months	800:01 – 960:00
7 Months	960:01 – 1120:00
8 Months	1120:01 – 1280:00
9 Months	1280:01 – 1440:00
10 Months	1440:01 – 1600:00
11 Months	1600:01 – 1760:00
12 Months	1760:01 – 1920:00
13 Months	1920:01 – 2080:00
14 Months	2080:01 – 2240:00
15 Months	2240:01 – 2400:00
16 Months	2400:01 – 2560:00
17 Months	2560:01 – 2720:00
18 Months	2720:01 – 2880:00
19 Months	2880:01 – 3040:00
20 Months	3040:01 – 3200:00
21 Months	3200:01 – 3360:00
22 Months	3360:01 – 3520:00
23 Months	3520:01 – 3680:00
24 Months	*3680:01 – 3840:00
*Employees may be granted more than 24 months creditable service if final accrued sick and vacation leave balances exceed 3840:00 hours.	

Note: Unused accrued sick and vacation leave balances shall be independently calculated.

Example:

320:22 Unused Vacation Leave = 3 Months
 318:45 Unused Sick Leave = 2 Months
 5 Months ERS Creditable Service

The Texa\$aver 401(k) and 457 Plans Lump Sum Deferral Enrollment Form

Employee Information	
Payroll Name: _____	Date of Birth: _____
Mailing Address: _____	Phone #: _____
City, State, Zip: _____	Retirement Date: _____
Social Security #: _____	Separation Date: _____

- ❖ Only complete this form if deferring Vacation and/or Overtime to the Texa\$aver 401(k) and 457 Plans.
or
- ❖ If deferring to both 401(k) and 457 Plans, please check both elections.

Plan and Deferral Election:

☐ **Texa\$aver 401(k) Plan Election**

I have an existing account or I have set-up an account with Great-West prior to my separation from the State and I authorize my employer to defer _____% (whole number) of my lump sum Salary Warrant to my designated account.

- ☐ Vacation
- ☐ Overtime
- ☐ Both, Vacation & Overtime

☐ **Texa\$aver 457 Plan Election**

I have an existing account or I have set-up an account with Great-West prior to my separation from the State and I authorize my employer to defer \$_____ (whole dollar) of my lump sum Salary Warrant to my designated account.

- ☐ Vacation
- ☐ Overtime
- ☐ Both, Vacation & Overtime

(To defer to both Vacation Time and Overtime, the whole dollar amount must be the same for both.)

Authorization:

I understand and agree to the terms of the Texa\$aver Program.

Participant's Signature

Date

Distribution:

Fax copy to deferred compensation coordinator at (936) 437-4140 and then mail original to Employee Services, HR Headquarters
Copy - Employee
Copy - Employee's Unit/Department Human Resources File (Activity Section)
PERS 571 (06/10)

Texas Department of Criminal Justice
Retiree Options Regarding
State Compensatory and Holiday Leave Accruals

Employee Name: _____

Month/Date
of Birth: _____
(mm/dd)

Unit/Department: _____

I have notified my human resources representative of my pending retirement. My human resources representative has explained my options regarding my existing state compensatory and holiday leave balances. I hereby elect the following option:

(Initials) **OPTION ONE: Forfeit State Compensatory/Holiday Leave Accruals**
I understand that, by choosing this option, I shall lose any state compensatory and holiday leave accruals remaining at the time of my elected retirement effective date indicated below.

Retirement Effective Date (last calendar day of month):

(mm/dd/yyyy)

****Or****

(Initials) **OPTION TWO: Exhaust State Compensatory/Holiday Leave Accruals**
I understand that, by choosing this option, my elected retirement effective date shall be after all my state compensatory and holiday leave accruals have been exhausted. My elected retirement effective date shall be the date indicated below. I also understand that: (1) I must notify the Employees Retirement System of Texas (ERS) in writing if I previously established a retirement effective date with the ERS; and (2) that the election of this option may change that effective date.

Retirement Effective Date (last calendar day of month):

(mm/dd/yyyy)

Employee Signature: _____ Date: _____
(mm/dd/yyyy)

Note to Employee: With few exceptions, you are entitled upon request: (1) to be informed about the information the TDCJ collects about you; and (2) under Texas Government Code §§ 552.021 and 552.023 to receive and review the collected information. Under Texas Government Code § 559.004, you are also entitled to request, in accordance with TDCJ procedures, incorrect information the TDCJ has collected about you be corrected.

Human Resources Representative Signature: _____ Date: _____
(mm/dd/yyyy)

Distribution:
Original - Unit/Department File - Insurance/Retirement Section
Copy - Employee